FILED
MAR 2 2011 OK
STATE ENGINEER'S OFFICE

IN THE OFFICE OF THE STATE ENGINEER OF THE STATE OF NEVADA

IN THE MATTER OF APPLICATION NUMBER **54005**

FILED BY **LVVWD / SNWA**

ON **October 17, 1989** TO APPROPRIATE THE

WATERS OF **UNDERGROUND**

} **PROTEST**

Comes now Elko Band Council

whose post office address is 1745 Silver Eagle Drive Elko Nv. 89801

whose occupation is a Tribal Government and protests the granting

of Application Number **54005**, filed on **October 17, 1989** by **LVVWD / SNWA** to appropriate the

waters of **UNDERGROUND** situated in Lincoln County, State of Nevada, for the following and on the following grounds, to wit: (*CHECK ALL THAT APPLY*)

- [x] 1. There is insufficient water available in the proposed source of supply.
- [ ] 2. The application and proposed use would conflict with existing water rights and protectable interests in domestic and/or ranch production and/or municipal wells.
- [x] 3. The appropriation and export of water proposed in this application would be detrimental to the public interest on environmental grounds in the basin of origin and in hydrologically connected and/or downwind basins and would be environmentally unsound as it relates to the proposed export basin: Harm to wildlife and wildlife habitat, degradation of air quality, destruction of recreational and aesthetic values, degradation of water quality, degradation of cultural resources, harm to state wildlife management areas and parks and state and federal wildlife refuges and parks.
- [x] 4. The appropriation and export of water proposed in this application would be detrimental to the public interest on economic grounds and would unduly limit future growth and development in the basin from which the export is proposed: undue limitation of future economic activity and growth in the basin of origin; undue economic harm will extend to the economies and communities of downgradient hydrologically connected and downwind basins; loss of public lands grazing and forage.
- [x] 5. The proposed action is not an appropriate long-term use of Nevada's water.
- [ ] 6. The Applicant has not justified the need to import water from another basin.
- [ ] 7. The Applicant has not implemented a sufficient conservation plan.
- [ ] 8. The Applicant has not demonstrated the good faith intent or financial ability and reasonable expectation to actually construct the work and apply the water to the intended beneficial use with reasonable diligence.
- [ ] 9. The Applicant has a duplicative application filed in 2010 which may require a duplicative hearing for the same groundwater.
- [ ] 10. The appropriation and export of groundwater from Spring Valley will harm existing permitted uses in the hydrologically connected areas including but not limited to Snake Valley and Great Basin NP.
- [x] 11. The appropriation and export of groundwater from Cave, Dry Lake, and Delamar Valleys will harm hydrologically connected areas including but not limited to Pahranagat and Moapa NWRs, 3 State WMAs, and Pahranagat and White River Valleys and Lake Mead NRA.
- [x] 12. Protestant reserves the right to amend this protest to include issues as they develop and incorporates other protests to SNWA's applications by reference.

THEREFORE the Protestant requests that the application be **DENIED** and that an order be entered for such relief as the State Engineer deems just and proper.

Signed [signature] 3-18-11

Gerald Temoke
Printed or Typed name, if agent

Address 1745 Siver Eagle Drive
Elko Nv. 89801
Address, City, State, Zip

Phone Number (775) 738-8889

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STATE ENGINEERS OFFICE

Subscribed and sworn to before me this 18 day of March, 2011

NOTARY PUBLIC
STATE OF NEVADA
County of Elko
VICKI YELLOWHAIR
Appt. No. 99-51425-6
My Appt. Expires October 2, 2011

Vicki Yellowhair
Notary Public
State of Nevada
County of Elko

+ $25 FILING FEE MUST ACCOMPANY PROTEST. PROTEST MUST BE FILED IN DUPLICATE. ALL COPIES MUST CONTAIN ORIGINAL SIGNATURE